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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 CEDRICK MARQUET HUDSON,
12 CDCR #F-77052,

13 Plaintiff,

14 vs.
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16 R.J. DONOVAN, et al.,
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18 Defendants.
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Civil No. 10-0191 JM (POR)

**ORDER DISMISSING CIVIL
ACTION WITHOUT PREJUDICE
FOR FAILING TO PAY
FILING FEE REQUIRED
BY 28 U.S.C. § 1914(a) AND/OR
FAILING TO MOVE TO PROCEED
IN FORMA PAUPERIS
PURSUANT TO
28 U.S.C. § 1915(a)**

21 Plaintiff, an inmate currently incarcerated at the Richard J. Donovan Correctional Facility,
22 located in San Diego, California, and proceeding pro se, has filed a civil action pursuant to 42
23 U.S.C. § 1983.

24 **I. Failure to Pay Filing Fee or Request IFP Status**

25 All parties instituting any civil action, suit or proceeding in any district court of the
26 United States, except an application for writ of habeas corpus, must pay a filing fee of \$350. *See*
27 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay this filing fee only
28 if the party is granted leave to proceed *in forma pauperis* ("IFP") pursuant to 28 U.S.C.

1 § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez v. Cook*,
2 169 F.3d 1176, 1177 (9th Cir. 1999).

3 Here, Plaintiff has not prepaid the \$350 filing fee required to commence a civil action,
4 nor has he submitted a Motion to Proceed IFP. Therefore, the case must be dismissed pursuant
5 to 28 U.S.C. § 1914(a). *Id.*

6 **II. Conclusion and Order**


7 For the reasons set forth above, the Court hereby:

8 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the \$350
9 filing fee or file a Motion to Proceed IFP pursuant to 28 U.S.C. §§ 1914(a) and 1915(a); and

10 (2) **GRANTS** Plaintiff **forty-five (45)** days leave from the date this Order is filed to:
11 (a) prepay the entire \$350 civil filing fee in full; *or* (b) complete and file a Motion to Proceed
12 IFP which includes a certified copy of his trust account statement for the 6-month period
13 preceding the filing of his Complaint. *See* 28 U.S.C. § 1915(a)(2); S.D. CAL. CIVLR 3.2(b).

14 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff with this
15 Court's approved form "Motion and Declaration in Support of Motion to Proceed *In Forma*
16 *Pauperis*." If Plaintiff fails to either prepay the \$350 civil filing fee or complete and submit the
17 enclosed Motion to Proceed IFP within that time, this action shall remain dismissed without
18 prejudice and without further Order of the Court.

19 DATED: March 3, 2010

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21 Hon. Jeffrey T. Miller
United States District Judge
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